

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 834 (Senators Hershey and Ready)
Education, Energy, and the Environment

**Energy Efficiency and Conservation Programs, Services, and Plans -
Moratorium**

This bill establishes a moratorium on units of State government implementing and enforcing the provisions of §§ 7-222 through 7-226 of the Public Utilities Article (the EmPOWER Maryland Program). The moratorium applies to (1) all EmPOWER programs and services provided by electric and gas companies and the Department of Housing and Community Development (DHCD); (2) the greenhouse gas (GHG) emissions reduction targets imposed on electric and gas companies by the Public Service Commission (PSC); and (3) the EmPOWER surcharge included on electric customer bills, except as specified. However, the bill requires PSC to continue, until December 31, 2032, rate-making policies providing for the recovery, via the EmPOWER surcharge, of any unpaid and unamortized costs incurred by electric or gas companies on or before July 1, 2026. Within three months after affected electric and gas companies have recovered all such unpaid and unamortized costs, PSC must report to the General Assembly and recommend whether the moratorium established under the bill should be rescinded. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: PSC can comply with the bill’s requirements using existing budgeted resources. Special fund revenues for DHCD decrease by tens of millions of dollars annually beginning in FY 2027 until the moratorium is lifted; special fund expenditures decrease correspondingly, as discussed below. The effect on electricity and gas prices is discussed in the Additional Comments section below.

Local Effect: Local government finances are affected, as discussed below. The effect on electricity and gas prices is discussed in the Additional Comments section below.

Small Business Effect: Meaningful, as discussed below. The effect on electricity and gas prices is discussed in the Additional Comments section below.

Analysis

Current Law:

Public Service Commission

PSC must supervise and regulate public service companies, which includes electric and gas companies, subject to its jurisdiction to (1) ensure their operation in the interest of the public and (2) promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination. In doing so, PSC must consider the public safety, the economy of the State, the maintenance of fair and stable labor standards for affected workers, the conservation of natural resources, the preservation of environmental quality, the achievement of the State’s climate commitments for reducing GHG emissions, and the protection of a public service company’s infrastructure against cybersecurity threats. PSC must also enforce compliance with legal requirements by public service companies.

A public service company must charge “just and reasonable rates” for the regulated services that it renders. Generally, PSC has the power to set a just and reasonable rate of a public service company, as a maximum rate, minimum rate, or both. A “just and reasonable rate” means a rate that (1) does not violate any provision of the Public Utilities Article; (2) fully considers and is consistent with the public good; and (3) except for rates of a common carrier, will result in an operating income to the public service company that yields, after reasonable deduction for depreciation and other necessary and proper expenses and reserves, a reasonable return on the fair value of the public service company’s property used and useful in providing service to the public.

EmPOWER Maryland Program

Program History

In 2008, the General Assembly passed the EmPOWER Maryland Energy Efficiency Act, which set target reductions of 15% in *per capita* electricity consumption and peak demand, respectively, by 2015 from a 2007 baseline. Legislation in 2017 extended the program through its 2018-2020 and 2021-2023 program cycles and established a new annual energy savings goal of 2.0% per year, based on each electric company’s 2016 sales. The Climate Solutions Now Act (CSNA) of 2022 (Chapter 38), which is discussed below, further increased the goal to 2.25% per year in 2025 and 2026 and to 2.5% annually thereafter.

Chapter 539 of 2024 altered the EmPOWER Maryland Program by, among other things, explicitly requiring each electric company, each large gas company, and DHCD to develop and implement energy efficiency, conservation, demand response, and beneficial electrification programs to achieve specified GHG emission reduction goals and targets, subject to review and PSC approval.

Program Requirements

Under the current program, PSC must encourage and promote the efficient use and conservation of energy in support of these goals and targets by requiring each electric company and gas company to establish any program or service that PSC determines to be appropriate and cost-effective. Additionally, PSC is required to adopt rate-making policies that, through the EmPOWER surcharge on customer bills, provide:

- full cost recovery of reasonably incurred costs for the programs and services, including full recovery on a current basis by January 1, 2028;
- by December 31, 2032, the elimination of any unpaid costs and unamortized costs that (1) existed on December 31, 2024, or were incurred before January 1, 2028, and (2) were accrued for the purposes of achieving EmPOWER goals;
- compensation for any of these unpaid costs and unamortized costs at not more than each electric and gas company's average cost of outstanding debt; and
- reasonable financial performance incentives and penalties for investor-owned electric companies and gas companies, as appropriate.

PSC must, by regulation or order, require electric and gas companies currently participating in EmPOWER to disclose (1) that the surcharge includes the cost of paying down unpaid costs and unamortized costs that were accrued over time by programs and services required by PSC dating back to 2008 and (2) the period of time that the surcharge will include excess charges to pay down those costs. The disclosure must be in a form and format readily understandable to the average customer.

Administration of Programs and Services

Programs and services under the EmPOWER Maryland Program are administered primarily by the State's electric and gas utilities, under the oversight of PSC. However, certain programs and services that provide assistance to low-income individuals and households are administered by DHCD.

Programs and Services Administered by Electric and Gas Utilities

Subject to review and PSC approval, each electric company, each large gas company, DHCD, and, if required in accordance with a determination process established by the bill, each "midsize electric cooperative," must develop and implement programs and services

to encourage and promote the efficient use and conservation of energy, demand response, and beneficial electrification by consumers, electric companies, gas companies, and DHCD in support of the GHG emissions reduction goals and targets required under Title 12, Subtitle 2 of the Environment Article. The requirement does not apply to a gas company with annual gross revenues of less than 3% of the total gross annual revenues for all public service companies in the State during the same calendar year. The only midsize electric cooperative in the State is Choptank Electric Cooperative.

As directed by PSC, each municipal electric or gas utility, each small gas company exempt from the requirement above, each small rural electric cooperative, and, if required in accordance with a determination process established by Chapter 539, each midsize electric cooperative, must include energy efficiency and conservation, demand response, and beneficial electrification programs or services as part of their service to their customers. (This requirement distinguishes the State's large utilities from the smaller utilities for purposes of EmPOWER.)

Programs and Services Administered by the Department of Housing and Community Development

As part of the EmPOWER Maryland Program, beginning January 1, 2025, and by January 1 every three years thereafter starting in 2027, DHCD must procure or provide to low-income individuals energy efficiency and conservation programs and services, demand response programs and services, and beneficial electrification programs and services that are on a trajectory to achieve GHG reductions of at least 0.9% of a 2016 baseline after 2027, determined as specified. The requirement applies to the 2025-2033 time period. The reductions count toward the overall GHG emissions reduction targets under the EmPOWER Maryland Program.

When calculating the achievement of GHG emissions reduction targets under the EmPOWER Maryland Program, DHCD may procure or provide savings that are achieved through all funding sources, to the extent that the savings from those funding sources are achieved (1) in a manner consistent with requirements of the U.S. Department of Energy or (2) in a manner otherwise consistent with the energy savings requirements applicable to those funding sources.

DHCD participates in the EmPOWER Maryland Program through two special fund programs: (1) the Low Income Energy Efficiency Program (LIEEP); and (2) the Multifamily Energy Efficiency and Housing Affordability (MEEHA) Program. LIEEP helps low-income households undertake energy conservation projects in their homes at no charge, while MEEHA promotes energy efficiency and affordability in the State's multifamily rental housing developments for low- and moderate-income

households. Approved program costs are recovered by electric companies on customer bills.

Cost Effective Greenhouse Gas Emissions Reductions Programs

By January 1, 2025, and every three years thereafter starting in 2027, PSC must, by regulation or order, require each electric company and each affected gas company to develop and implement a plan that (1) covers appropriate ratepayer classes; (2) starting in 2027, covers a three-year program cycle; and (3) achieves the specified GHG emissions reduction targets established for the company.

For 2025 and 2026, and for each three-year program cycle starting in 2027, PSC must establish a GHG emissions reduction target for each electric company and each affected gas company. Specific to electric companies, at least eight months before the filing deadline for plans, PSC must establish GHG emission reduction targets for each electric company plan that will achieve at least the GHG emissions reduction equivalent of specified annual electricity savings percentages, calculated as a percentage of the electric company's 2016 weather-normalized gross retail sales and electricity losses. The percentages are 2.25% in 2026 and 2.5% each year thereafter. With respect to gas companies, by January 1, 2025, and every three years thereafter starting in 2027, PSC must establish GHG emissions reduction targets for each gas company plan that will achieve at least the GHG emissions reduction equivalent, measured as specified, of the gas savings achieved by the gas company for the 2021-2023 EmPOWER cycle.

Contributions to GHG emissions reduction goals and targets in a plan of an electric company or a gas company may include recovery of the reasonable and prudent costs from programs that are not behind-the-meter in a base rate proceeding, subject to PSC approval.

Plan Details, Review, and Approval

PSC must issue, at least eight months before the filing deadline for plans, an order that determines the GHG emissions reduction targets required for each company and DHCD. By September 1, 2026, and by September 1 every third year thereafter, if directed by PSC, each electric company, each affected gas company, and DHCD must submit its plan to PSC.

Each plan must detail a proposal for achieving GHG emissions reduction targets for three subsequent calendar years and must include specified relevant information, such as anticipated costs and GHG emissions reductions.

PSC must review each plan to determine whether it is adequate and cost effective (across specified metrics and categories) in achieving the GHG emissions reduction targets established for each electric company, each affected gas company, and DHCD. PSC must

consider any written findings provided by the Maryland Energy Administration (MEA), the Maryland Department of the Environment, and the Office of People’s Counsel regarding plan design and adequacy. In approving, modifying, or denying a plan, PSC must consider specified factors, such as cost-effectiveness and the impact on rates. Programs and services offered by DHCD are not required to be cost effective.

Plan Implementation Updates, Monitoring, and Reports

Every six months, each electric company, each gas company, and DHCD must provide to PSC an update on plan implementation. PSC must monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results. PSC must monitor and analyze the impact of each program and service to ensure that the outcome of each program and service provides the best possible results.

By May 1 each year, PSC must report to the General Assembly on (1) the status of programs and services approved, as specified; (2) a recommendation for the appropriate funding level to adequately fund the programs and services; (3) the per capita electricity consumption and the winter and summer peak demand for the previous calendar year; and (4) beginning in 2026, progress made toward reducing GHG emissions.

Climate Solutions Now Act

CSNA made broad changes to the State’s approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

Strategic Energy Investment Fund

MEA administers the Strategic Energy Investment Fund (SEIF), which, among other revenue sources, receives funds from the sale of carbon dioxide emissions allowances under the Regional Greenhouse Gas Initiative and alternative compliance payments generated through the State’s renewable energy portfolio standard. Additionally, SEIF will receive a portion of corporate income tax revenues from qualified data centers that are operational on or after January 1, 2026.

MEA is required to use SEIF for specified uses, such as providing rate relief by offsetting electricity rates of residential customers, including an offset of EmPOWER surcharges imposed on those customers under Title 7, Subtitle 2, Part II of the Public Utilities Article.

State Fiscal Effect: The bill’s moratorium on implementing the provisions of the EmPOWER Maryland Program supersedes DHCD’s statutory mandate under § 7-224 of the Public Utilities Article to provide certain programs and services to low-income individuals and households. Except as specified, the moratorium also prohibits the ongoing collection of EmPOWER surcharge revenues, a portion of which support DHCD programs and services. Consequently, this analysis assumes that DHCD must discontinue the EmPOWER-related programming it currently offers, including LIEEP and MEEHA (discussed above in the Current Law section) – until the moratorium is lifted.

Accordingly, special fund revenues and expenditures for DHCD decrease by tens of millions of dollars annually beginning in fiscal 2027 until the moratorium is lifted. For context, in fiscal 2025, DHCD’s total expenditures under the EmPOWER Maryland Program were approximately \$68.2 million.

This analysis assumes that DHCD eliminates any staff currently assigned to its EmPOWER Maryland Program activities – at least until the moratorium is lifted. To the extent DHCD does not do so, general funds would be needed to fund any ongoing positions.

Local Fiscal Effect: DHCD directs a portion of its funding under the EmPOWER Maryland Program to local governments for energy efficiency and electrification upgrades. Thus, as a result of the bill’s moratorium, revenues decrease for local governments that otherwise would have received such funding from DHCD. It is anticipated that local government expenditures decrease by a corresponding amount.

Small Business Effect: PSC data from its 2024 annual report on the EmPOWER Maryland Program shows that the State’s four investor-owned utilities and Southern Maryland Electric Cooperative spent a total of \$330.7 million on energy efficiency and conservation programs in compliance year 2024. The bill’s moratorium on implementing these programs reduces demand for the services of small businesses that provide energy efficiency services, such as equipment installers, electricians, and energy auditors. Additionally, because DHCD contracts extensively with small businesses to perform energy upgrade work in the homes of LIEEP participants, the discontinuation of LIEEP – until the moratorium is lifted – eliminates those contracting opportunities.

Additional Comments: Electricity and gas prices decrease in the short term, potentially significantly, as a result of the bill’s moratorium on implementing and enforcing the EmPOWER Maryland Program. The bill substantially reduces the EmPOWER surcharge on customer bills by limiting it to the recovery of certain unpaid and unamortized costs incurred by electric or gas companies. However, the bill’s longer-term effect on ratepayers is less clear. The savings generated by the bill’s reduction in the EmPOWER surcharge are partially offset – and potentially wholly offset over time – by increased energy

consumption and higher demand on the State’s electric grid relative to what it would have been in the bill’s absence.

According to PSC, the existing programs discontinued under the bill – until the moratorium is lifted – reduce overall customer energy usage and lower demand on the electric system, allowing utilities to avoid certain costs, such as purchased energy, capacity charges, and transmission and distribution expenses. PSC advises that if these programs are terminated, many of these avoided costs will reappear.

Although the magnitude of electricity rate changes during the five-year period covered by this fiscal and policy note cannot be reliably estimated, the bill may have a significant effect on electricity prices. In any case, the State, local governments, and all businesses, including small businesses, are affected by any short-term decrease in rates that result from the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Housing and Community Development; Department of Human Services; Department of Natural Resources; Maryland Energy Administration; Office of People’s Counsel; Public Service Commission; Department of Legislative Services

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